

REPORT TO: Cabinet

MEETING DATE: 12 November 2013

BY: Depute Chief Executive (Resources and People Services)

SUBJECT: Freedom of Information (Scotland) Act 2002 and
Data Protection Act 1998 – Compliance Statistics

1 PURPOSE

- 1.1 To report on the Council's compliance with the 20 working day timescale laid down by the Freedom of Information (Scotland) Act 2002 for the period from 1 April 2013 to 30 September 2013.
- 1.2 To report on the Council's compliance with the 40 calendar day timescale laid down by the Data Protection Act 1998 for the period from 1 April 2013 to 30 September 2013.

2 RECOMMENDATIONS

- 2.1 To note the report.

3 BACKGROUND

- 3.1 **Freedom of Information (Scotland) Act 2002** - During the period 1 April 2013 to 30 September 2013, East Lothian Council operated in accordance with the statutory requirements, particularly:

Requests for information – to be answered within 20 working days

Requests for review – to be answered within 20 working days by a Chief Officer

If requesters remained dissatisfied after completing this process, then they had a legal right to appeal to the Scottish Information Commissioner (SIC).

3.2 Freedom of Information (FOI) statistics are recorded by Law & Licensing. Guidance on how to handle information requests, and requests for review, are on the Council's intranet, accessible to all employees.

3.3 The total number of FOI requests received from 1 April 2013 to 30 September 2013 was **528**, an increase from the previous half year (477). Overall numbers of FOI requests have been increasing steadily since the Freedom of Information (Scotland) Act 2002 came into force.

This figure includes information requests processed under the Environmental Information (Scotland) Regulations 2004 (EIR). A split of the FOI and EIR requests is provided at 3.5 of this report.

3.4 The total number of requests for review received from 1 April 2013 to 30 September 2013 was **14**, a slight increase from the previous half year (10).

This figure includes reviews processed under the Environmental Information (Scotland) Regulations 2004 (EIR). A split of the FOI and EIR reviews is provided at 3.6 of this report.

3.5 Since January 2013, the recording system used has distinguished between FOI requests and requests falling within the Environmental Information (Scotland) Regulations 2004 (EIR). The table below provides a breakdown of the response timescales for both FOI and EIR requests between 1 April 2013 to 30 September 2013:

	FOI		EIR	
On time	376	94%	64	96%
Late	24	6%	3	4%
Lapsed/Written Off	0		0	
Date of Completion Unknown	0		0	
Cancelled/Withdrawn	2		1	
Suspended	8		0	
Ongoing	49		1	
TOTAL ACTIONED	410		68	

It should be noted that seven information requests were delayed as the information required was held by the schools which were closed for the summer holidays. This resulted in a breach of the legislation.

3.6 The table below provides a breakdown of the response timescales for FOI and EIR requests for review between 1 April 2013 to 30 September 2013:

	FOI		EIR	
On time: Within 20 Working Days	8	89%	4	100%
Late	1	11%	0	-
Upheld	7		3	
Partially Upheld	0		0	
Overtaken	0		1	
Additional Info Provided	1		0	
Invalid	1		0	
Total Received	10		4	
Total Actioned	9		4	
Still Outstanding	1		0	
Grand Total of Internal Reviews	14			

3.7 The top three enquirers were:

- 1) General Public
- 2) Commercial Organisations
- 3) Journalists

3.8 **Data Protection Act 1998** – East Lothian Council operates in accordance with the statutory requirements, particularly:

Requests for personal information (“Subject Access Requests”) – to be answered within 40 calendar days

3.9 Data Protection (DP) statistics are recorded by Law & Licensing. Guidance on how to handle requests for personal information (“Subject Access Requests”) are on the Council’s intranet, accessible to all employees.

3.10 The total number of DP “Subject Access Requests” received from 1 April 2013 to 30 September 2013 was 42. (During the previous quarter year 28 requests were received):

Completed on time (within 40 calendar days)	27	90%
Late	3	10%
Suspended	1	
Withdrawn	1	
Ongoing	10	
Total Actioned	30	

It should be noted that two of the “Subject Access Requests” were delayed because the information required was held by the schools which were closed for the summer holidays. This resulted in a breach of the legislation.

4 POLICY IMPLICATIONS

4.1 None.

5 EQUALITIES IMPACT ASSESSMENT

5.1 This report is not applicable to the well being of equalities groups and an Equalities Impact Assessment is not required.

6 RESOURCE IMPLICATIONS

6.1 Financial - None

6.2 Personnel - None

6.3 Other – None

7 BACKGROUND PAPERS

7.1 None

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